

While sellers of books, sheet music, and phonograph records incur Retailers' Occupation Tax liability when they sell those items to purchasers for use or consumption and not for resale, sales of newspapers and magazines are not subject to tax. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

November 30, 1998

Dear Manager:

This letter is in response to a complaint the Department received regarding the overcollection of tax on magazines. We are required to respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

The complaint was in regards to overcollection of tax on TV Guide magazines. Please be advised, that while sellers of books, sheet music, and phonograph records incur Retailers' Occupation Tax liability when they sell those items to purchasers for use or consumption and not for resale, sales of newspapers and magazines are not subject to tax. See the enclosed copy of 86 Ill. Adm. Code 130.2105.

In making the determination as to whether a publication qualifies as a magazine for purposes of exemption from Retailers' Occupation Tax, there is one test that must be met and several other factors that will be considered. To qualify as a magazine, the publication must be published periodically; it must be published at least 2 times per year. It must also possess at least one characteristic of a magazine. The additional characteristics to be considered would include whether the publication can be subscribed to, whether it contains articles of items of general interest, whether it contains general advertising, and whether it has the format of a magazine such as a soft cover, individual pages, and indexed articles. See also, Moody's Investors Service, Inc. v. The Department of Revenue, 101 Ill.2d 291 (1984)

Generally, publications, such as TV Guide, qualify as magazines and are therefore tax-exempt.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have any questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding this factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk

Enc.